

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ENOCH SELLASIE,

Plaintiff,

v.

CINDY GRIFFITH,

Defendant.

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No. 4:16-CV-764 CDP

MEMORANDUM AND ORDER

This matter is before the review of plaintiff's second amended complaint. After review, the Court finds that the complaint must be dismissed for failure to state a claim upon which relief can be granted.

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief, a complaint must plead more than "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a "mere possibility of misconduct." *Id.* at 679. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 678. Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. *Id.* at 679.

When reviewing a complaint under 28 U.S.C. § 1915(e), the Court accepts the well-pled facts as true. Furthermore, the Court liberally construes the allegations.

The Complaint

Plaintiff brings this action against Cindy Griffith, Chief Administrative Officer of the Potosi Correctional Center, in her individual capacity. On December 22, 2014, Plaintiff injured his left foot. “Since that time, Plaintiff has personally written communications ‘begging’ for a cane regarding the circumstances for his foot injury.” Compl. at 6. He has filed several grievances as well. On February 5, 2015, he was given a cane. On March 25, 2015, “two employees” took the cane away. Plaintiff alleges that Griffith “personally refused” his request for a cane.

Discussion

To state a claim for medical mistreatment, plaintiff must plead facts sufficient to indicate a deliberate indifference to serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976); *Camberos v. Branstad*, 73 F.3d 174, 175 (8th Cir. 1995). Allegations of mere negligence in giving or failing to supply medical treatment will not suffice. *Estelle*, 429 U.S. at 106. In order to show deliberate indifference, plaintiff must allege that he suffered objectively serious medical needs and that defendants actually knew of but deliberately disregarded those needs. *Dulany v. Carnahan*, 132 F.3d 1234, 1239 (8th Cir. 1997). There are no non-conclusory allegations showing that plaintiff suffered an objectively serious need or that defendant deliberately disregarded that need. He does not elaborate on his injury or his need for a cane. His allegations regarding both are devoid of facts, which if proved, would entitle him to relief. Therefore, the complaint does not state a plausible claim for relief.

Moreover, “[l]iability under § 1983 requires a causal link to, and direct responsibility for, the alleged deprivation of rights.” *Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990); see *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) (“Because vicarious liability is inapplicable to *Bivens* and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.”); *Camberos v. Branstad*, 73 F.3d 174, 176 (8th Cir. 1995) (“a general responsibility for supervising the operations of a prison is insufficient to establish the personal involvement required to support liability.”). Plaintiff’s allegation that Griffith was personally responsible for denying his request for a cane is entirely conclusory. He only alleges that he filed grievances or sent letters, to which she may have responded. However, ruling on grievances does not indicate personal involvement. See *George v. Smith*, 507 F. 3d 605, 609 (7th Cir. 2007) (“Only persons who cause or participate in the [constitutional] violations are responsible. Ruling against a prisoner on an administrative complaint does not cause or contribute to the violation.”). As a result, the complaint must be dismissed.

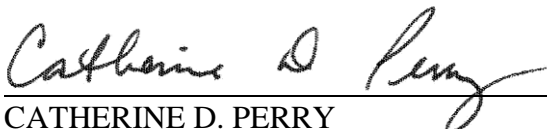
Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that all pending motions are **DENIED** as moot.

An Order of Dismissal will be filed separately.

Dated this 6th day of October, 2016.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE